

**SAUL EWING**  
**ARNSTEIN**  
**& LEHR** <sup>LLP</sup>

William C. Baton  
Phone: (973) 286-6722  
Fax: (973) 286-6822  
wbaton@saule.com  
www.saul.com

December 12, 2018

**VIA ECF**

The Honorable Cathy L. Waldor, U.S.M.J.  
United States District Court  
M.L. King, Jr. Federal Bldg. & Courthouse, Room 4040  
50 Walnut Street  
Newark, New Jersey 07102

Re: *Indivior Inc., et al. v. Dr. Reddy's Laboratories S.A., et al.*  
Civil Action No. 17-7111 (KM)(CLW) (consolidated)

*Indivior Inc., et al. v. Alvogen Pine Brook, Inc.*  
Civil Action No. 17-7106 (KM)(CLW) (consolidated)

Dear Judge Waldor:

This firm, together with Covington & Burling LLP and Steptoe & Johnson LLP, represents Plaintiffs Indivior Inc. and Indivior UK Limited and Aquestive Therapeutics, Inc. (collectively, "Plaintiffs") in the above-captioned matters.

We write to respectfully request an adjustment of the claim construction schedule in these matters. Specifically, Plaintiffs request that opening *Markman* briefs be submitted three weeks after the Federal Circuit issues its mandate in *Indivior Inc., et al. v. Dr. Reddy's Labs. S.A., et al.*, No. 2018-2167.

As Your Honor is aware, the proper interpretation of the claim scope in U.S. Patent No. 9,931,305 (the "'305 Patent") was one of the major disagreements between Plaintiffs and Defendants Dr. Reddy's Laboratories, S.A. and Dr. Reddy's Laboratories, Inc. (collectively, "DRL") during the preliminary injunction proceedings. A panel of the Federal Circuit, in a 2-1 decision, issued an opinion that provides a preliminary evaluation of certain issues touching on claim scope. Plaintiffs will file a combined petition for panel rehearing and rehearing *en banc*, which is due by December 20, 2018. Plaintiffs expect that if the petition for

Hon. Cathy L. Waldor, U.S.M.J.

December 12, 2018

Page 2

rehearing is granted and the panel opinion is modified in any way, it will impact the claim construction disputes between the parties on the '305 Patent.

However, as the schedule stands, the first claim construction deadline arises next week, even before Plaintiffs' deadline to petition the Federal Circuit for rehearing. Currently, the deadline for Opening *Markman* Submissions is December 19, 2018, with Responsive *Markman* Submissions due on February 11, 2019. The parties must then meet and confer by February 15, 2019 regarding scheduling a claim construction hearing. (D.I. 176, 17-7111; D.I. 67, 17-7106.) To date, no hearing has been scheduled for claim construction.

Plaintiffs approached Defendants about this issue on December 10, 2018, after DRL asked if Plaintiffs would be willing to modify Plaintiffs' proposed claim construction for certain terms of the '305 Patent in light of the Federal Circuit's opinion. Defendants declined to join in this request, and indicated that they oppose any modification of the claim construction briefing schedule.

Plaintiffs respectfully submit that their proposed adjustment of the briefing deadlines, based on events unforeseen when the schedule was adopted, will foster judicial efficiency, clarify the issues in dispute, and result in briefing that is most helpful to the Court to resolve the disputed issues. Under the current schedule, if Plaintiffs' combined rehearing petition in the Federal Circuit is granted, the parties will need to modify their claim construction submissions with respect to the '305 Patent. These duplicative efforts would burden the Court with requests for leave to amend *Markman* submissions, additional briefs, and potentially duplicative hearings. In an attempt to avoid wasted effort and to streamline the presentation of the issues before the Court, Plaintiffs respectfully request an adjustment of the briefing schedule as set forth in the below chart:

| Activity   | Current Schedule | Plaintiffs' Proposed Schedule  |
|--|------------------|--|
| Opening <i>Markman</i> submissions   | 12/19/2018       | 3 weeks after the mandate issues in <i>Indivior Inc., et al. v. Dr. Reddy's Labs. S.A., et al.</i> , No. 2018-2167 (Fed. Cir.) |
| Close of Claim Construction Expert Discovery with Regard to Opening <i>Markman</i> Submissions | 01/17/2019       | 30 days after Opening <i>Markman</i> Submissions (L. Pat. R. 4.5(b))   |
| Responding <i>Markman</i> submissions  | 02/11/2019       | 60 days after Opening <i>Markman</i> Submissions (L. Pat. R. 4.5(c))   |

Hon. Cathy L. Waldor, U.S.M.J.

December 12, 2018

Page 3

| Activity   | Current Schedule | Plaintiffs' Proposed Schedule  |
|--|------------------|--|
| Meet and Confer to Schedule Claim Construction Hearing | 02/15/2019       | 14 days after Responding <i>Markman</i> Submissions (L. Pat. R. 4.6) |

If this proposal meets with Your Honor's approval, we respectfully request that Your Honor sign the below form of endorsement and have it entered on the respective dockets.

Thank you for Your Honor's kind attention to these matters.

Respectfully yours,



William C. Baton

cc: Counsel of record (via e-mail)  
The Honorable Kevin McNulty, U.S.D.J.

SO ORDERED on this \_\_\_\_ day of \_\_\_\_\_, 2018:

---

Hon. Cathy L. Waldor, U.S.M.J.